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January 10, 2020

**VIA ECF**

Honorable Wilhelmina M. Wright  
United States District Court  
334 Federal Building  
316 N. Robert Street  
St. Paul, Minnesota 55101

**Re: *Fair Isaac Corp. v. Federal Insurance Co. et al.*,  
No. 16-cv-01054-WMW-DTS (D. Minn. filed April 21, 2016)**

Dear Judge Wright,

Fair Isaac Corporation (FICO) respectfully requests permission to file a motion for summary judgment on Federal Insurance Company's (Federal) and ACE American Insurance Company's statute of limitations affirmative defense.

On August 8, 2019—almost two weeks after the dispositive motion deadline—Defendants filed a motion to amend their Answer to add a statute of limitations defense. (Dkt. 456.) In his oral order on August 26, 2019, Magistrate Judge Schultz granted Defendants' motion, conditioned on Federal providing by November 15, 2019, specific disclosures regarding the installation of Blaze Advisor outside the United States, and presenting in Minneapolis by November 27, 2019, a Rule 30(b)(6) deponent to testify to those disclosures. (Aug. 26, 2019 Hearing Tr., p. 7.) The August 26th Order was affirmed on December 10, 2019. (Dkt. 684.)


Honorable Wilhelmina M. Wright  
January 10, 2020  
Page 2 of 2

Judge Schultz sought to mitigate the prejudice to FICO from Defendants' amendment adding the statute of limitations defense after the close of discovery and after the deadline for FICO to file dispositive motions. He advised "that FICO . . . could also in light of this order ask for whatever briefing or other timing relief that it could obtain from Judge Wright." (Aug. 26, 2019 Hearing Tr., p. 11.)

Because Defendants were permitted to add the statute of limitation defense after FICO filed its motion for summary judgment on July 26, 2019, FICO was denied the opportunity to move for summary judgment on Defendants' affirmative defense in accord with the Scheduling Order deadlines (Dkt. 205 at 4). Moreover, it would have been improper for FICO to move for summary judgment while the record on that issue was still open, namely the discovery Judge Schultz ordered for November 15th and November 27th.

The record is now closed. Defendants' November 15th disclosure and the testimony of its Rule 30(b)(6) witness admit to installation of Blaze Advisor outside the United States within the statute of limitations, rendering Defendants' statute of limitations defense baseless. FICO respectfully requests leave to file a motion for summary judgment directed at Defendants' affirmative defense of statute of limitations.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Allen Hinderaker", with a stylized flourish at the end.

Allen Hinderaker

AWH:can  
cc: All Counsel of Record (Via ECF)